

AGING, DEPARTMENT ON[17]

Notice of Intended Action

Proposing rule making related to managed care ombudsman program and providing an opportunity for public comment

The Department on Aging hereby proposes to amend Chapter 8, “Long-Term Care Ombudsman,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 17A.3 and 231.42.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 231.44.

Purpose and Summary

These proposed amendments are required under 2016 Iowa Acts, House File 2460, which directed the Office of the State Long-Term Care Ombudsman (OSLTCO) to adopt rules that relate to the OSLTCO’s managed care ombudsman program.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 17—Chapter 11.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on August 6, 2019. Comments should be directed to:

Angela Van Pelt
Iowa Department on Aging
Jessie Parker Building
510 East 12th Street, Suite 2
Des Moines, Iowa 50319
Phone: 515.210.2114
Email: angela.vanpelt@iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental

subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 17—8.1(231) as follows:

17—8.1(231) Purpose. This chapter establishes procedures for notice and appeal of penalties imposed for interference with the official duties of a long-term care ombudsman, which are established in Iowa Code sections 231.42 and 231.45 and in accordance with Section 712 of the Older Americans Act. This chapter also establishes criteria for serving under the certified volunteer long-term care ombudsman program. The long-term care ombudsmen investigate complaints related to the actions or inactions of long-term care providers that may adversely affect the health, safety, welfare, or rights of residents and tenants who reside in long-term care facilities, assisted living programs, and elder group homes. In addition, this chapter establishes the process for representatives of the office of the state long-term care ombudsman who are local long-term care ombudsmen performing managed care ombudsman services to provide assistance and advocacy related to long-term services and supports under the Medicaid program.

ITEM 2. Adopt the following **new** rule 17—8.7(231):

17—8.7(231) Managed care ombudsman program.

8.7(1) The office of the long-term care ombudsman may provide advocacy and assistance to eligible recipients, or the families or legal representatives of such eligible recipients, of long-term services and supports provided through the Medicaid program who are receiving services in a long-term care facility or under one of the home- and community-based services waivers.

8.7(2) Representatives of the office of long-term care ombudsman providing an individual with assistance and advocacy services authorized under Iowa Code section 231.44 shall be provided access to the individual and to the individual's medical, social and administrative records related to the provision of the long-term services and supports to the individual, as authorized by the individual or the individual's legal representative, as necessary to carry out the duties specified by Iowa Code section 231.44.

8.7(3) The office of long-term care ombudsman and representatives of the office, when providing assistance and advocacy services under Iowa Code section 231.44, shall be considered a health oversight agency as defined in 45 CFR §164.501 for the purposes of health oversight activities described in 45 CFR §164.512(d). Recipient information available to the office of long-term care ombudsman and representatives of the office under this subrule shall be limited to the recipient's protected health information as defined in 45 CFR §160.103 for the purpose of recipient case resolution.

ITEM 3. Amend **17—Chapter 8**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~section~~ sections 231.42 and 231.44.